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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,219	09/24/2004	Clemens Schopper	PD020020	5139
7590	08/29/2007		EXAMINER	
Joseph S Tripoli Thomson Licensing Inc Patent Operations Two Independence Way Princeton, NJ 08543-5312			KOSTAK, VICTOR R	
			ART UNIT	PAPER NUMBER
			2622	
			MAIL DATE	DELIVERY MODE
			08/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/509,219	SCHOPPER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Victor R. Kostak	2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 July 2007.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

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1. Applicant has not adequately amended claim 9 to comply with the requirements of 35 USC 112 2<sup>nd</sup> paragraph. As was pointed out in the last Office action, the claim provides for the use of cross-fading, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. *A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.* The claim only recites that input signals *are cross faded* (i.e. in the past tense), and that each signal *is assigned* (again the past tense) a specific cross fading function.

Applicant has added “steps” but the steps are drafted in the past tense (e.g. a “transfer function *is inputted* ...”; “each input signal *is written* to store ...”; “each input signal *is read out* ...” instead or stating the steps in the active tense, like “*inputting* a transfer function”; and “*writing* each input signal into store ...”; and “*reading out* each input signal ...” thereby teaching a method with actual steps. (Note the method claims in the references cited).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-9 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al. (of record) in view of Takano (5,764,214).

Reviewing the audio/video mixer of Cohen (noting particularly Figs. 3, 13-15, 18, 25, 27 and 28), which hardware arrangement is shown in Fig. 3, it includes cross-fading capabilities

(e.g. Fig. 15b). An input control interface (keyboard 325 in Fig. 3) is used to select plural inputs of respective applied signals (labeled 1<sup>st</sup> and 2<sup>nd</sup> streams in Fig. 15b) and specific cross-fade functions (Fig. 14a, 16) are selected and controlled by associated elements 302, 304 and 306 (Fig. 3), the composite output signal being presented at speaker 351 and video display 330. Cohen includes plural storage devices including a writable/readable RAM 304 as well as hard disk 307, both capable of having the cross-fading functions written into and read from.

Takano also discloses a display system that features various special effects including fade-in/fade-out (e.g. col. 1 lines 8-10), includes storage of the effects (attributes: e.g. col. 1 lines 32-35). He further points out that the degree of freedom of display styles of an application unit (system application) can be improved by modifying the display attributes for each object by preparing a plurality of control attributes and selecting appropriate one of them at the time of updating displays (col. 10 lines 56-61).

In view of this explicit teaching and its stated benefit combined with the earlier description in col. 1 lines 26-35 of Takano, it would therefore have been obvious to store the updated modified attributes (i.e. effects) in the system of Cohen, for the express benefit of providing the user with updated or customized fading effects, incorporated in the storage capabilities disclosed in Cohen, thereby meeting claims 1 and 9.

As for claim 3, the start and end times for the cross fade functions are encompassed by the cross-fade interval (depicted in Figs. 14, 15b and 16).

Regarding claim 4, the direction of the fading profile can be chosen within the cross-fading interval (noting again Figs. 14, 15b and 16).

As for claim 5, both linear and non-linear fading can be selected (noting Figs. 16 and 28).

As for claim 6, an additive cross-fade function is depicted in Fig. 15b, which shows linearly-assigned positive and negative crossing functions.

Considering claim 7, Fig. 3 assumes a graphical user interface (interfacing being carried out by keyboard 325 and cursor controller 327, the viewing screen shown 322, for example, in Figs. 16, 27 and 28.

As for claim 8, representation of the profiles and time bases of the cross fades are shown in Figs. 16, 27 and 28. It is noted that the added subject matter to claim 8 is in alternative language, and the first feature of the plural is met.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348.

The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**Any response to this final action should be mailed to:**

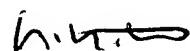
Box AF  
Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**Or faxed to:**

**(571) 273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is (703) 308-HELP.

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Victor R. Kostak  
Primary Examiner  
Art Unit 2622

VRK